SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF YOLO
APPELLATE DEPARTMENT

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF YOLO, Respondent;	Superior Court No. 15-6705	FILED YOLO SUPERIOR COURT JUN 17 2015 BY MP DEPUTY
Vs.		
JAMES E. HORTON, Petitioner,		
The People of the State of California, Real Party in Interest.		

PETITIONER'S ANSWER TO RESPONDENT'S REPLY BRIEF
On petition for a Writ of Mandate from the Judgment of the Superior Court County of Yolo

The Honorable Judge Steven L. Mock of the Supérior Court County of Yolo County

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Petitioner Self-Representing

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STATEMENT OF THE CASE

Judge Maguire, at trial readiness hearing on 06152016 has ordered that parties file papers concerning delay of decisions upon Petitioner's petition of mandate with request for stay of proceedings by vacated date of 06172016. Procedurally Overburdened by this order, Petitioner hereby offers an Answer to Respondent's Reply Brief supporting his previous arguments for a required dismissal due to denial of his rights to Speedy Trial, Due Process and Fair Trial immediately.

STATEMENT OF FACTS

On 04202016, Petitioner filed Petition for Writ of Mandate and Request for Stay of Proceedings... At trial readiness conference scheduled on 04212016, Judge Daniel P. Maguire continued proceeding until 06152016 in lieu of time for decision upon Petition aforesaid and a stay until such. Respondent, Prosecutor Frits Van Der Hoek, filed opposition on 05092016. Petitioner has multiple times visited the court clerk seeking decision upon Petition in full-faith effort. Court repeatedly informed Petitioner has been being scrutinized over by such as called an "Attorney Unit" since 05092016. By hearing date at issue, decision was still pending and delayed in same process.

In open court on 06152016, for continued trial readiness conference, Petitioner argued:

Petitioner requested continuance upon stay of proceedings requested raising concern that, as denial of a fundamental right, his Petition with full merit for dismissal would be deprived with prejudicial ignorance if trial date not vacated.

2. Thusly, more bad-faith delay has been caused, in effect, by the Appellate Department.

3. Respondent's basic assertion, that vacating trial (under circumstances) contradicted Petitioner's insistence upon his speedy Trial Rights, is a prejudicing oversimplification of matters. He argued: essentially, the right does not entail simply "expediting" a trial (as a superficial interpretation of the term). Doctrine at issue, by intent, ensures that an "accused" is not deprived by the State of fundamental liberties by Abuse of Legal Process via maliciously intended procrastination combined with Malicious Prosecution. Furthermore, this right as an issue is balanced against various weighty presumptions such as his right to Due Process for a Defense – which rights have been deprived through pendency. Therefore, since even a dismissal is required, continuance at this time would have showing of cause. By raising issues in court and in motions, Petitioner has objected to the causes of "bad-faith" delay... he has asserted this right actually and is asserting this not detriment his other rights in balance as well.

Upon reasoning that Appellate Department must be unaware of trial date in untimely delaying passed set trial for decision, Judge ordered that: 1. trial readiness conference be vacated (for only two days) until Friday 06172016 at 1000 with trial still set to begin on Monday 06202016 and, 2. that both parties file moving papers informing the court of the trial and soliciting a decision (for both stay and petitions) before the vacated date (within only less than two days for exercise of motion practice with disregard for customary procedural statute at issue).

RULE OF LAW

In *Jackson v. Superior Court,* defendant's trial was set post multiple continuances; parties had agreed to a last extension beyond statutory time period for bringing to trial. On that date, failure of Sheriff's to punctually transport him from confinement to court caused defendant's absence in court when the case was called on docket. He was currently, that moment, held in a holding area of the court. Despite objection of defense counsel, trial was once more continued finding, "The court found good cause to delay trial because 'Sheriff fails to deliver defendant to court." When defense counsel's motion to dismiss pursuant to § 1382 was denied 2 days later, he filed a petition for Writ of Mandate to Dismiss with the Court of Appeal, *Second District, Division* 3. *The Court of Appeal granted defendant's petition* and dismissed charges holding: "Defendant's right to speedy trial cannot be stifled by procrastination or neglect by public officials" (*Jackson v. Superior Court* (1991) 230 Cal.App. 3d 1391). Holding relied, in part, on *Sykes* which held that "a speedy trial requires prompt action upon the part of all who are officially concerned, at the least, to the extent that adjudication of a defendant's rights shall not be stifled by the procrastination of officials" (*Sykes v Superior Court* (1973) 9 C3d 83). When a motion to dismiss on the grounds of a speedy of a speedy trial violation has been denied, the defendant may file a petition for a writ of mandamus to compel discovery (*Jackson v. Superior Court.* 230 CA3d 1391).

ARGUMENT

ARGUMENTS IN SUPPORT OF RESPONDENT'S REPLY BRIEF ARE BASED ON FALSIFICATION OF FACTS

In Respondent's Reply, he argued that Petitioner failed to provide an adequate record to the court. His points were based upon the following falsifications:

1. Hearing upon motions was on 021620166 and Petitioner "failed to include the transcript..." Actually, Petitioner filed motions at issue on 02172016 and 02192016 and had appended relevant, legible transcript to petition.

2. Respondent has alleged description of copy which I served upon District Attorney's Office which is blatantly false. Prejudicing Petitioner's reputation before the court (and on record), he suggests that I filed an illegible copy of the relevant transcript as an appendix. Also, he, in writing, alleged details that I appended (as if materially at issue) downloaded internet materials *all on topics related to Israeli politics and government spy operations. I RESENT THE* IMPLICATION – I have no idea what he wrote about. I suspect he is either implicating my mental state falsely or egregiously abusing legal process with a nefarious intent to reach for (and by allusion) fabricated suspicions or accusations completely irrelevant to the case. I am very concerned. (Please... I do not want to go to trial here...) On the contrary, petitioner filed an adequate, legible record for review as hereto attached as exhibit B. [In the event record on file reflects similar or same as Respondent's assertion, this circumstance could only be result of conspiracy to commit serious fraudulent abuse of the criminal justice system. Therefore, in order to ensure accuracy in the file, I have appended hereto a true copy of petition filed and served as exhibit B.]

Therefore, it would be in the interest of justice for the Court to dismiss the charge on grounds that Denial of Right to Speedy Trial is presumed to prejudice Defendant by procrastination of public officials.

DENIAL OF CONTINUANCE (AND WITH SHOW OF GOOD CAUSE) WILL CAUSE ACTUAL PREJUDICE TO PETITIONER'S DUE PROCESS RIGHTS WITH RESPECT TO CONSIDERATION OF HIS PETITION

Proceeding with trial on Monday 06202016 upon such prejudicial denial of said stay will effect actual prejudice to his pretrial motion practice with disrespect to his diligent full-faith effort toward his defense and therefore his fundamental Due Process rights. Such would effect total ignorance of his Petition with obstruction of procedure. In Memorandum supporting Petition, Petitioner has adequately informed court of necessity for extraordinary relief and why an ordinary appeal is insufficient... mostly in that DEFENDANT IS PREJUDICED BY PROLONGED RESTRAINT OF LIBERTY by ABUSE OF LEGAL PROCESS and his life is unduly disrupted by deprivation of several fundamental rights.

According to *Serna*, "Right to speedy trial protects criminal defendant against oppressive pretrial incarceration, anxiety, concern and disruption of his everyday life" (Serna v Superior Court (1985) 40 C3d 239).

The right to speedy trial is a fundamental right designed " 'to protect those accused of crime against possible delay, caused either by willful oppression, or the neglect of the state or its officers.' " (*Jones v. Superior Court* (1970) 3 Cal.3d 734, 738 [91 Cal.Rptr. 578, 478 P.2d 10].)

CONCLUSION

This motion is responsive to order of Judge Maguire on 06152016 aforementioned; therefore, in extraordinary circumstances, motion must be considered timely. Defendant respectfully motions this Court to dismiss the accusatory pleading and/or grant stay of proceedings.

Date 06172016

James E. Horton

James E. Horton, In Propria Persona